

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

MICHAEL AMARAL,)	
)	
Plaintiff)	
)	
)	CIVIL ACTION NO.: 04-11778 GAO
PENN MARITIME, INC.,)	
)	
Defendant)	
)	

JOINT RULE 16.1(D) MEMORANDUM

The Plaintiff, Michael Amaral, and Defendant, Penn Maritime, Inc., hereby submit their Joint Statement pursuant to Rule 16.1(D) of the Local Rules for the District of Massachusetts.

1. Agenda:

- 1.1 Status of settlement discussions
- 1.2 Proposed pre-trial schedule

2. Proposed pre-trial schedule:

- 2.1 Initial written discovery to be propounded by January 31, 2005 and responses served by no later than April 30, 2005.
- 2.2 Non-expert depositions shall be completed by June 30, 2005.
- 2.3 All discovery motions must be filed within thirty (30) days of receiving the discovery or the responses that are the subject of such motion.
- 2.4 Reports of Plaintiff's experts shall be disclosed by May 30, 2005 and reports of Defendant's experts shall be disclosed by June 30, 2005. Each party agrees to make its experts available for deposition on a mutually agreeable date following

the disclosure of each expert's report. Depositions of experts shall be completed by August 31, 2005. Each party must disclose rebuttal experts within forty-five (45) days of receipt of the disclosure of the expert to be rebutted. All expert discovery is to be conducted consistent with Rule 26(a)(2), Fed.R.Civ.P.

2.5 All dispositive motions must be filed by September 15, 2005.

2.6 A status conference shall be set on July 11, 2005 at 2:00 p.m.

2.7 Trial may be scheduled in October 2005 other than in the week of October 10, 2005.

3. Alternative Dispute Resolution

Both parties are willing to participate in any of the ADR mechanisms set out in Local Rule 16.4, provided that they can agree on a mutually acceptable mechanism for doing so.

4. Consent to Magistrate

The parties do not, at present, consent to the appointment of a Magistrate Judge as to any matters.

5. Concise summary of positions:

Plaintiff: This is an action to recover damages for personal injuries arising out of an incident involving Michael Amaral, a Jones Act seaman injured on the Tugboat, Penn 2 ("the Penn 2") on or about January 15, 2003. The Plaintiff is a Jones Act Seaman who suffered severe and permanently disabling injuries due to the unsafe condition of the vessel. He was transported to the Sisters of Charity Medical Center on St. Vincent's Campus in Staten Island, New York following the incident. Since the accident, the Plaintiff has received extensive and ongoing medical treatment. The Plaintiff claims to have a permanent disability.

Defendant: Defendant denies that Plaintiff's injuries were caused by the fall on the date alleged, or that he suffered any disabling injury. Defendant also denies liability and alleges that if an accident occurred it occurred due to Plaintiff's own negligence.

6. Rule 16.1 Certifications:

Attached hereto.

Dated: December 28, 2004

Michael Amaral

By His Attorneys,

/s/ John E. Sutherland

John E. Sutherland, BBO# 488960

Angela H. Magary BBO# 644499

BRICKLEY, SEARS & SORETT, P.A.

75 Federal Street

Boston, MA 02110

(617) 542-0896

Penn Maritime, Inc,

By its attorneys,

/s/

Timothy R McHugh (B.B.O. #335480)

P.O. Box 211

Southborough MA 01772

(617) 593-5405

Gino A. Zonghetti

Kenny Stearns & Zonghetti

26 Broadway

New York, NY, 10004-1882

(212) 422-6111

CERTIFICATE OF SERVICE

I, John E. Sutherland, attorney for the Plaintiff, do hereby certify that on December 23, 2004, I served a copy of the within to the Defendant, by mailing a copy first class mail postage prepaid to Timothy R McHugh, Esq., P.O. Box 211, Southborough MA 01772

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY ON THIS 23rd DAY OF DECEMBER, 2004.

John E. Sutherland

/s/

John E. Sutherland